



House of Representatives

File No. 642

General Assembly

February Session, 2014

(Reprint of File No. 39)

Substitute House Bill No. 5044
As Amended by House Amendment
Schedule "A"

Approved by the Legislative Commissioner
April 21, 2014

AN ACT CONCERNING THE LIABILITY OF OWNERS AND KEEPERS OF DOMESTICATED HORSES, PONIES, DONKEYS AND MULES.

Be it enacted by the Senate and House of Representatives in General
Assembly convened:

1 Section 1. (NEW) (*Effective from passage*) (a) In any civil action
2 brought against the owner or keeper of any horse, pony, donkey or
3 mule to recover damages for any personal injury allegedly caused by
4 such horse, pony, donkey or mule, such horse, pony, donkey or mule
5 shall not be found to belong to a species that possesses a naturally
6 mischievous or vicious propensity.

7 (b) In any civil action brought against the owner or keeper of any
8 horse, pony, donkey or mule to recover damages for any personal
9 injury allegedly caused by such horse, pony, donkey or mule, there
10 shall be a presumption that such horse, pony, donkey or mule did not
11 have a propensity to engage in behavior that would foreseeably cause
12 injury to humans. Such presumption may be rebutted by evidence that
13 such horse, pony, donkey or mule previously exhibited behavior that
14 put the owner or keeper of such horse, pony, donkey or mule on notice

15 that such horse, pony, donkey or mule had a propensity to engage in
16 the behavior that allegedly caused such personal injury.

17 (c) There shall be no cause of action for strict liability brought
18 against the owner of any horse, pony, donkey or mule to recover
19 damages for any personal injury alleged to be caused by such horse,
20 pony, donkey or mule.

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| This act shall take effect as follows and shall amend the following sections: | | |
| Section 1 | <i>from passage</i> | New section |

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

The bill makes changes to current law which does not result in a fiscal impact. The bill creates a presumption that a horse, pony, donkey, or mule is domesticated, not inherently dangerous, and does not possess a vicious propensity.

House "A" eliminates the original bill and its associated fiscal impact and results in the impact described above.

The Out Years

State Impact: None

Municipal Impact: None

OLR Bill Analysis**sHB 5044 (as amended by House "A")******AN ACT CONCERNING DOMESTICATED HORSES.*****SUMMARY:**

This bill states that in any civil action brought against the owner or keeper of any horse, pony, donkey, or mule (i.e., "horse") to recover damages for an injury the animal allegedly caused that these animals do not belong to a naturally mischievous or vicious species. Additionally, the bill creates a presumption in any civil action that the individual animal does not possess a propensity for behavior that would foreseeably be dangerous to humans. This presumption is rebuttable by evidence the animal exhibited behavior in the past that alerted the owner or keeper that it had a propensity to engage in the behavior that allegedly caused the injury in question.

The bill also prohibits state courts from holding owners or keepers of such animals strictly liable for damages they cause. These changes potentially reduce the owner or keeper's civil liability for damages.

A recent Connecticut Supreme Court decision classified horses as an inherently dangerous species with vicious propensities because they have a natural propensity to bite, which imposes a duty on the owner or keeper to guard against foreseeable injuries.

*House Amendment "A" replaces the original file, which contained similar changes to the liability of the owners and keepers of horses in civil actions seeking to recover damages caused by the animal. It explicitly prohibits courts from applying strict liability to the owner or keeper for injuries caused by one of these animals.

EFFECTIVE DATE: Upon passage

OWNER'S OR KEEPER'S DUTY OF CARE

In *Vendrella v. Astriab*, 311 Conn. 301(2014), the Supreme Court ruled an owner of a domesticated animal has a duty, under a two-part test, to use reasonable care to restrain the animal so as to prevent it from doing injury if the owner or keeper knows that the animal:

1. belongs to a species with vicious propensities, which means a natural tendency to engage in behavior that could be dangerous to people or property, or
2. has an individual tendency to engage in behavior unusual to its species that could be dangerous to people or property.

The first part of this test applies categorically to an entire species, while the second part requires a case-by-case determination examining the behavior and characteristics of the individual animal in question.

Under the bill, an owner or keeper will only have the duty to use reasonable care to restrain the animal to prevent foreseeable harm if the animal has exhibited behavior in the past that alerted the owner or keeper to the dangerous behaviors of that individual animal. A duty may no longer be imposed on the basis that a horse belongs to an inherently dangerous species.

STRICT LIABILITY PROHIBITED

Strict liability holds the defendant in personal injury suits responsible for the injuries without requiring the plaintiff to prove the defendant's conduct was negligent. Under the changes made by this bill, before the owner or keeper of these animals can be held liable for injuries they cause, the plaintiff must prove (1) that the animal in question exhibited past behavior that alerted the owner or keeper to that individual animal's dangerous tendencies and (2) that the owner or keeper acted negligently in guarding against injuries that might be foreseeably caused by the individual animal's tendencies.

BACKGROUND

Vicious Propensity Defined

In *Vendrella v. Astriab*, the Appellate Court also explained the phrase “vicious propensity” means any tendency on the part of a domestic animal to engage in behavior likely to cause injury to human beings under the circumstances in which the party controlling the animal places it. This behavior may include playfulness or curiosity on the part of the animal that may be potentially dangerous to people.

COMMITTEE ACTION

Environment Committee

Joint Favorable Substitute

Yea 27 Nay 0 (03/07/2014)